1 Hon. Tana Lin 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 WESTERN DISTRICT OF WASHINGTON AT SEATTLE 8 9 KURT A. BENSHOOF, No. 2:24-cy-00343-TL BRIANA D. GAGE, 10 11 Plaintiffs, PLAINTIFFS' NOTICE OF OBJECTIONS 12 v. 13 CITY OF SHORELINE, et al., 14 Defendants. 15 16 I. INTRODUCTION 17 Plaintiff Kurt Benshoof ("Benshoof") files this notice, objecting to violations of 18 Fed.R.Civ.P. 12(b) by Defendants CITY OF SHORELINE and KING COUNTY, which 19 states, in part, "A motion asserting any of these defenses *must* be made *before* 20 *pleading* if a responsive pleading is allowed." (*emphasis* added) 21 22 While Plaintiffs will be filing their First Amended Complaint by leave of this 23 Court (Dkt. #85, pg. 1) on or before January 21, 2025, Plaintiffs note their objections 24 for appeal and request that counsel for Defendants henceforth comply with the 25 Federal Rules of Procedure and the Washington BAR Rules of Professional Conduct. 26 PLAINTIFF'S MOTION FOR U.S. MARSHALS SERVICE Kurt Benshoof, Co-Plaintiff 22701 42nd Place West WAWD No. 2:24-cv-00343-TL Mountlake Terrace, WA 98043 FOR Page 1 of 3 (425) 553-8112

kurtbenshoof@gmail.com

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II. VERIFIED STATEMENTS OF FACT

- Counsel Ann Summers filed an Answer on behalf of Defendants KING
 COUNTY on May 31, 2024, (Dkt. #27) and CITY OF SHORELINE on July 1, 2024.
 (Dkt. #47)
- 2. On August 30, 2024, Defendants CITY OF SHORELINE and KING COUNTY filed a motion to dismiss, ostensibly pursuant to Fed.R.Civ.P. 12(c). (Dkt. #59)
- 3. The motion to dismiss filed by counsel Ann Summers argued for dismissal under under Fed.R.Civ.P. 12(b)(6) by claiming that "Plaintiffs have failed to state a claim upon which relief can be granted." (Dkt. #59, pg. 6, ¶1)

III. ARGUMENT & AUTHORITY

- 4. The Answers filed by Ann Summers each constituted a "responsive pleading" pursuant to Fed.R.Civ.P. 12(b).
- 5. Fed.R.Civ.P. 12(b) unequivocally states that "A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed." Because the motion to dismiss (Dkt. #59) asserted the Fed.R.Civ.P. 12(b)(6) defense of failure to state a claim, counsel Summers violated the Federal Rules of Procedure.
- 6. Benshoof, denied paper, envelopes, and postage, was held *in communicado* by King County officials within King County jails from July 3, 2024, to November 27, 2024. (Dkt. #86-1, pg. 43)
- 7. Because the motion to dismiss clearly violated Fed.R.Civ.P. 12(b)(6), the motion was not properly before the Court and should have been stricken *sua sponte*.

 PLAINTIFFS' NOTICE OF OBJECTIONS

 Kurt Benshoof, Co-Plaintiff

PLAINTIFFS' NOTICE OF OBJECTIONS WAWD No. 2:24-cv-00343-TL FOR Page 2 of 3

Kurt Benshoof, Co-Plaintiff 22701 42nd Place West Mountlake Terrace, WA 98043 (425) 553-8112 kurtbenshoof@gmail.com VERIFICATION

Plaintiff Kurt Benshoof does hereby declare that the foregoing is true and correct to the best of his knowledge under penalty of perjury in the State of Washington. Executed this 17th day of January in the year 2025, in the city of Mountlake Terrace, in the county of Snohomish, in the state of Washington.

By:

Kurt Benshoof, $Pro\ Se$ 22701 $42^{\rm nd}$ Place West Mountlake Terrace, WA 98043

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PLAINTIFF'S MOTION FOR U.S. MARSHALS SERVICE WAWD No. 2:24-cv-00343-TL FOR Page 3 of 3

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